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UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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In Re:)
)
FCC/NARUC Industry Forum)
on Slamming Liability)
Procedures)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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on Slamming Liability)
Procedures)

FCC Headquarters
445 12th Street, S.W.
Washington, D.C.

Wednesday,
August 23, 2000

The parties met, pursuant to the notice of the
Commission, at 9:38 a.m.

BEFORE: Bill Gillis
Chair of NARUC Committee on Consumer Affairs
and
Dorothy Attwood
Chief, Common Carrier Bureau

Heritage Reporting Corporation
(202) 628-4888

P R O C E E D I N G S

(9:38 a.m.)

1
2
3 MR. GILLIS: Bill Gillis. I'm with the Washington
4 State Utility and Transportation Commission, and I chair the
5 NARUC Committee on Consumer Affairs. And with me are a
6 number of state colleagues that I will introduce in just a
7 minute or two. But before doing that, it is my pleasure to
8 recognize our federal member of the NARUC Committee on
9 Consumer Affairs, Commissioner Gloria Tristani, who is here
10 this morning with us, and we're very pleased to have her
11 with us, and also want to take this opportunity to thank
12 Commissioner Tristani and the FCC for this cooperative
13 effort to have states and the FCC working together to reduce
14 slamming.

15 MS. TRISTANI: Thank you, Bill. Good morning to
16 all of you. It is indeed a pleasure to welcome so many of
17 my friends and colleagues from the state commissions, and
18 their staff, too. At the outset, I would like to express my
19 thanks and commend the extraordinary efforts of Bill Gillis
20 implementation efforts in protecting consumers. You have
21 really raised the level of the most important concern that
22 we should have at NARUC, and I really want to thank you for
23 that. And it is a privilege to be a member of your
24 committee, and I wish I could attend the meetings more
25 often, but I do try, at least by telephone.

1 I also want to welcome Bob Rowe and my other
2 colleagues, and thank you for your efforts. And not to
3 forget, I want to commend Dorothy Attwood, our new common
4 carrier bureau chief, for making this also one of her
5 priorities. And I have already said good things about you,
6 but I would like to say them again. I'm so happy that you
7 are leading the charge.

8 The Commission and the states have been working
9 together for some time to eradicate slamming. In April, we
10 modified our slamming rules in response to the D.C. stay of
11 the rules. In addressing the court's concerns, we sought
12 out NARUC's advise. With NARUC's input, we were able to
13 design a plan for administering the rules that will both be
14 effective and consumer friendly. Our new rules provide
15 uniformity in remedies nationwide that also take advantage
16 of the states' expertise.

17 The court has now lifted its stay, and it is time
18 for the rules to be implemented. I am here to express my
19 support for the Commission and NARUC coming together with
20 the industry to work out the nuts and bolts of how this
21 joint effort will develop.

22 I look forward to seeing the results of today's
23 forum as the rules go into effect. Such results should --
24 will be reflected in the reduction, and I hope some day,
25 elimination of slamming all together. And I want to thank

1 you again for your efforts. I really would like to stay,
2 but I have got to go do some other business. But again,
3 thank you for your efforts. Thank you, the members of
4 industry that are here. This is something that for America
5 we need to work out, and it is not too soon to do that.
6 Thank you.

7 MR. GILLIS: Thank you, Commissioner. Also,
8 before we introduce ourselves, I want to recognize
9 Commissioner Bob Rowe from Montana, who is the president of
10 NARUC, and himself a very strong regulator with the
11 consumers interest at heart as the high priority. And I'm
12 very pleased that Bob can join us today.

13 MR. ROWE: Thank you, Bill. I thank all of you
14 for coming today as well. The goal of all of this is to
15 first of all get slamming as close to zero as possible, to
16 build on, not to replace, many of the good existing efforts,
17 including the existing efforts within industry, and then
18 ultimately to provide effective, meaningful remedies as
19 close to the customer as possible.

20 We very much appreciate the FCC's response to
21 NARUC's proposal of last year, and very much thank Chairman
22 Kennard, Commissioner Tristani, and their colleagues. We
23 are delighted with our work together over the last few
24 months on implementation and very much appreciate their
25 commitment to customer service. That really is what it is

5
1 all about, both within the local and the long industries. I
2 think everyone has an interest in promoting customer
3 confidence and customer satisfaction with the services that
4 they are receiving. And therefore, I think it is very much
5 in industry's interest to support the level of cooperation
6 within industry, between industry and the regulators, and
7 particularly between the FCC and the state commissions.

8 So what we are about today is to take a good idea
9 and make it work. And again, the intent is not to replace
10 many of the existing prompt, informal resolutions that
11 currently occur with the essentially nondisputed pick
12 errors, but to really go at the tough slamming complaints
13 and to drive those down as close to zero as possible.

14 In that spirit, I very much appreciate the
15 constructive approach of many of the industry comments that
16 we have received in the last few days. There are some good
17 implementation suggestions, as well as some fair questions
18 that we need to clarify. Among the suggestions that were
19 interesting to me were talking about developing model
20 practices, and emphasis on the electronic exchange of
21 information.

22 What I would like to see come out of this would be
23 at least three things, first of all, a transparent, rapid
24 hand-off of complaints where complaints occur. You could
25 think of that like interconnection. Second, aggressive,

1 efficient state implementation, really learning from one
2 another. And what the Consumer Affairs Committee has been
3 all about now for the last few months is sharing that kind
4 of information. You can think of that as a best practices
5 approaches -- discussions between states and discussions
6 between states and the FCC. Then third, again industry
7 coordination to deal with many of the back office kinds of
8 issues.

9 I very much want to thank again our friends at the
10 FCC, and particularly Bill Gillis, Pam Nelson, and the very
11 hard working staff of the Consumer Affairs Committee. This
12 is a great meeting. I'm delighted that we are finally here
13 having this conversation.

14 MR. GILLIS: Thank you, Bob. This is clearly a
15 partnership between the states and the FCC in dealing with
16 this very critical issue. And I think what I would suggest
17 next is to allow my remaining state colleagues to introduce
18 themselves, and then recognize Dorothy Attwood and proceed
19 from there for any additional comments and introduction to
20 federal colleagues.

21 So -- and we do have some people on the phone that
22 I would like to make sure we recognize also. But let's
23 begin with the people in the room. Trish?

24 MS. DOLESE: My name is Trish Dolese. I'm with
25 the Texas Public Utility Commission.

1 MS. ELLIOTT: I'm Vicki Elliott with the
2 Washington Commission.

3 MS. DeMELLO: Hi. I'm Bev DeMello with the
4 Florida Public Service Commission.

5 MS. NELSON: I'm Pam Nelson, South Dakota Public
6 Utilities Commission.

7 MR. RAMSAY: Brad Ramsay, NARUC's General Counsel.

8 MR. GILLIS: I think that is the state folks that
9 are here. We have some individuals on the phone, I believe,
10 also. I would comment that there has just been tremendous
11 interest among the states in the new FCC slamming authority
12 given to states. We had a conference call right after the
13 order came out, and there were nearly 40 states that are
14 represented on that conference call on very short notice,
15 which it indicates the level of enthusiasm and excitement
16 that states have for undertaking this. And we had a number
17 of people that wanted to call in today.

18 So I have a list. I'll go down the list and see
19 if they have been able to call on yet. Commissioner Jacobs
20 from Florida. Commissioner Bob Nelson, Michigan. I wonder,
21 are we connected? We may not be connected to the phone.
22 Yeah. We'll just come back to that. At this point, let me
23 just --

24 MR. JACOBS: Bill, can you hear me?

25 MR. GILLIS: Yes.

1 MR. JACOBS: This is Leon Jacobs. I'm sorry. I
2 forgot we were supposed to push a button here.

3 (Laughter)

4 MR. GILLIS: We have Commissioner Jacobs from
5 Florida. Is Commissioner Nelson from Michigan on?
6 Commissioner Wiefal from North Dakota? Other state folks on
7 the line, would you introduce yourselves, please?

8 MS. MCCARTNEY: Marcia McCartney, Oklahoma
9 Corporation Commission.

10 MS. FERNANDEZ: Ms. Fernandez, Colorado PUC.

11 MR. SPECTOR: Barney Spector, Connecticut
12 Commission.

13 MS. FRANKEL: Dina Frankel, Vermont Department of
14 Public Service.

15 MS. BARKER: Beverly Barker, Idaho PUC.

16 MS. WHITNEY: Kate Whitney, Montana.

17 MR. POSTON: Mark Poston, Missouri PSC.

18 MR. GILLIS: Great. Thank you very much. And
19 there may be a few others joining us along the morning. And
20 next, as I indicated, I want to recognize a friend and
21 colleague and supporter of issues that are very important to
22 the states. That is Dorothy Attwood, and we are very
23 pleased with her new role as chief of the Common Carrier
24 Bureau and very pleased to work with Dorothy on this
25 important issue. So let me recognize you, Dorothy, and your

1 colleagues.

2 MS. ATTWOOD: Thanks, Bill. I want to get to the
3 questions, but I do want to say a few things, then I'll have
4 the folks that are with us introduce themselves as well.
5 But I think it is important to start this off by
6 underscoring why we are really here today. We are going to
7 talk a lot about the nuts and bolts of how to implement the
8 cooperation between the states and the feds and the
9 carriers. But I think we shouldn't lose sight of the fact
10 that what we are really trying to do here is not manage
11 slamming. That is incorrect. We are trying to eliminate
12 slamming. And the way in which the Commission, this
13 Commission in its rules, felt that it could eliminate
14 slamming was to have effective consumer remedies because
15 that would deter the slam to begin with.

16 And I think that it is really extremely important
17 not to lose sight when we are talking about how we are going
18 to implement these rules that the goal for the federal
19 regulators and the state regulators is to not have that slam
20 happen in the beginning. And I think that leads into the
21 second important factor not to lose sight of, and that is
22 that in the Commission's new rules, we recognized that we
23 should punish the guilty and try to not impose obligations
24 or burdens on the innocent. And I'm talking about the
25 carriers here because I assume all of the consumers are

1 innocent.

2 And so we moved our rules away from imposing
3 obligations on authorized carriers to imposing obligations
4 on slamming carriers and trying to increase the penalties
5 associated with the slam. But what that means is that the
6 carriers have the keys to their own jail, that you can make
7 this process harder if you slam, and you can make it easier
8 if you don't slam. And I think that that is a simple fact
9 that we are going to operate on as we implement these rules,
10 and we are not going to try to get bolloxed up in how much
11 burden it is on a slamming carrier.

12 That isn't, from the perspective of this
13 federal regulator, really what we are concerned about. We
14 are concerned about the burden on the consumer and making
15 sure that consumer doesn't experience the slam in the first
16 instance.

17 So as we implement these rules, I think the goal
18 is -- and ultimately, our measure of success will be seeing
19 whether or not the burdens are lifted from the consumer
20 because we have brought the slamming problem down.

21 And finally, I think it is important that we think
22 about this as an opportunity. We're going to be -- they are
23 thorny questions, they are difficult questions. They are
24 implementation nightmares. But this is an opportunity for
25 the carriers and the state and federal regulators to act in

1 unison to eliminate a problem that is a vexing problem for
2 all of us because all of us don't want to disrupt the
3 customer relations. And I'm -- by your very presence here,
4 you're concerned about your relationships with your
5 customers, and you are concerned about making sure that we
6 in fact provide an efficient remedy and not have the
7 customer confusion and concern that is out there for this
8 slamming problem.

9 And I would like you to approach this as an
10 opportunity and not try to find the hypothetical situation
11 that will be incredibly difficult for any of us to answer,
12 but is also very unlikely to surface. And if it does, we'll
13 answer it. This is an iterative process. We will work to
14 make our worlds responsive. But instead of approaching it
15 as this cannot happen, we should approach it as this can
16 work, it will work, and we will all show the critics and,
17 you know, those naysayers that in fact we can eliminate
18 slamming.

19 So I think that is very important as we start to
20 talk about some of the nitty gritty.

21 I'd like to introduce the folks that have been
22 working on this and who are from the federal side. And why
23 don't you go ahead and just --

24 MS. SEIDEL: Cathy Seidel from the Enforcement
25 Bureau.

1 MR. REYNOLDS: Glen Reynolds.

2 MR. SCHROEDER: Kurt Schroeder from the
3 Enforcement Bureau.

4 MR. KOLLY: Roy Kolly, Consumer Information
5 Bureau.

6 MS. ATTWOOD: And Lorraine.

7 (Pause)

8 MS. ATTWOOD: You can introduce yourself.

9 MS. MILLER: Hi. I'm Lorraine Miller, Consumer
10 Information Bureau.

11 MS. WALTERS: Michelle Walters from the Common
12 Carrier Bureau.

13 MR. COX: Will Cox from the Common Carrier Bureau.

14 MS. ATTWOOD: Okay, great. Then we can start with
15 some questions.

16 MR. GILLIS: Thank you. Yeah, we can move right
17 into the questions. The way we would like to proceed is go
18 through the agenda just question by question. We are
19 operating on a rather informal basis here. This is an
20 opportunity for discussion. And we'll engage you folks that
21 are here, and so just ask you to stand up and join in, but
22 let us know where you're from and your affiliations to help
23 us.

24 Let's just begin with the first category of -- I
25 should also give a little background. The issues listed

1 that we are working from today came from the carriers
2 themselves. We had asked the carriers to indicate the
3 issues that were of concern to them in implementing this new
4 slamming authority. And that's where this list came from.
5 We put them in order of importance and priority to make sure
6 that we have time to get through them today.

7 The first area is the area of PIC disputes. And
8 the carriers raised four broad issues under that. The first
9 two are kind of grouped together as "Can a LEC continue to
10 handle PIC disputes through the no-fault process," and "must
11 no-fault resolutions be reported as slamming complaints."

12 We are going to operate informally and just ask
13 anybody at the table or even on the phone to make comments
14 initially on this to extend to you and we'll work through it
15 on an ad hoc basis. But in general, this issue is very
16 important to states to have this clarified that we have an
17 expectation from our perspective that the industry will
18 continue doing what the industry has been doing to make sure
19 that the complaints are resolved. And we don't see the
20 orders as changing that. And I'd like to ask Dorothy
21 Attwood or the other federal members to expand.

22 MS. ATTWOOD: Sure. I guess on there seems to be
23 some confusion about whether the carrier can resolve or the
24 LEC or the slamming carrier can resolve as an initial matter
25 when a customer reports a slam, can resolve that or satisfy

1 the customer. And there seems to be some indication from
2 carriers of confusion about whether they can in fact resolve
3 that without forwarding it to the appropriate state
4 commission or the federal commission. And there also seems
5 to be on a kind of a more nefarious side a desire to in fact
6 send that customer over to the state commission and not have
7 the responsibility and the obligation to satisfy that
8 customer.

9 And I think the order is clear. But to underscore
10 the order, the Commission would -- and the states fully
11 expect that carriers discharge their obligations in the
12 first instance to that consumer. And if that consumer can
13 be made satisfied by providing that remedy to the consumer
14 in that first phone call, then that is in fact contemplated
15 and encouraged by the rules. And if there are -- in billing
16 relationships, if there is a billing relationship with the
17 LEC that provides for a no-fault solution, that is, when the
18 customer calls up and says I have a problem, and the billing
19 relationship with that, LEC is such that LEC is permitted to
20 take that charge off the bill. That continues, and if that
21 satisfies the customer, that ends the obligation of the
22 carrier.

23 Now I should say that we expect that and require
24 that the carrier inform the customer that it has a right to
25 complain. We don't expect that to be the first Miranda

1 warning that the customer gets when they call. We expect
2 that customer to in fact be satisfied under the obligations
3 that every carrier has to make that customer satisfied. But
4 the customer should be notified that if they are not
5 satisfied, they have a right to seek additional remedies
6 with this -- alternative remedies with the state -- in the
7 state, through the state process.

8 And I guess that -- I think it is really very
9 important. And if in fact we find out that carriers are not
10 providing customer care obligations, I think we would have a
11 major problem with that from an enforcement point of view if
12 in fact we found a consistent pattern, that carriers were
13 not trying to, at least as an initial matter, satisfy
14 consumers and make them be responsive to their concerns and
15 their injury.

16 MR. GILLIS: Anyone else like to speak to this
17 before we open it up? Anybody on the phone as well, if you
18 have anything to add to this.

19 MS. WALTERS: Commissioner Gillis, Michele Waters.
20 I just wanted to point out that the Commission's feeling
21 about this is expressly stated in the first order on
22 reconsideration that we are discussing today, for example,
23 in paragraph 33 and associated footnotes. So the Commission
24 was clear in that order, and I believe in the more recent
25 slamming order, the Third Report and Order. There are also

1 statements there, just to make it clear that the Commission
2 and the rules definitely permit and encourage the
3 continuation of these practices to satisfy the customer
4 before it escalates to the level of a complaint.

5 MS. ATTWOOD: Questions? Can you identify who you
6 are?

7 AUDIENCE MEMBER: (Off mike.)

8 MS. ATTWOOD: I think it is in our mutual interest
9 both to be upset about a practice. If I'm understanding
10 what you're suggesting, a carrier that says I don't follow
11 the rules; instead I'm just going to pass this consumer on
12 to the federal or state regulatory body, I think it is in
13 both our interest, and I would argue that we both have an
14 enforcement obligation there. And we would certainly be
15 concerned about it. And whether we both bring an action or
16 we coordinate because we are talking weekly, daily on how to
17 in fact enforce these rules and implement these rules -- I
18 would doubt we would duplicate efforts, but we certainly --
19 one of us would bring an action in that instance because
20 that would be in fact in violation of federal law and state
21 law.

22 MS. NELSON: We also think that there is adequate
23 financial incentive for the company to resolve and make the
24 customer happy because believe me, if you go -- and at least
25 in South Dakota and in many other states, commissions have

1 authority to penalize companies to a larger extent. Right
2 now, most customers that we run into are really just trying
3 to get this problem resolved, don't want to pay for
4 something that they weren't legitimately supposed to pay
5 for. They feel violated when somebody switched their
6 provider without their permission. I mean, they are happy
7 just to get this off their backs and settled.

8 But there are other stronger remedies that
9 companies will face in South Dakota and many other states if
10 they are unable to resolve that issue with the customer. It
11 is in their best interest and financially and customer
12 relation-wise to do what they can to make this customer
13 happy before it ever gets to us.

14 MR. GILLIS: And for those of you in the audience,
15 there is microphones on both sides if you would use those
16 because there is people on the phone that need to hear us.
17 So just go stand in front of the microphone and we'll
18 recognize you.

19 One thing that Dorothy said that I think is very
20 important for us to emphasize is that a large part of our
21 reason for being here together is the fact that the states
22 and the federal levels are talking and coordinating on this
23 issue and are very serious about making sure that we attack
24 this as a coordinated front so that it will occur one way or
25 the other.

1 Anything else on the first two issues?

2 MS. ATTWOOD: I think on the second point, though,
3 that resolutions need -- the rules do require that they be
4 reported as slams. That means, in other words, that
5 carriers need to twice a year report to us those incidents
6 that have been alleged slams. Now there has been concern
7 that either being onerous or being misleading. I think the
8 position of the -- the reason why we felt that it was
9 important to have that is not to -- by not having the
10 alleged slams reported, we were concerned that there would
11 be some actors that were under our radar screen, that we
12 weren't able to identify as carriers that were
13 systematically slamming and then paying, you know, some
14 portion of that, and customers weren't in fact reaching a
15 level of -- you know, their numbers weren't reaching a level
16 of concern that was really appropriate to the action.

17 But on the other side of that, we have no interest
18 in bringing an action based on mere allegations because --
19 and so what I mean to say is that we're not looking at that
20 information saying ah-ha, now we have -- we are able to get
21 this carrier. We are looking at that information in
22 conjunction with other information to determine whether
23 there is somebody out there that we're missing. And we
24 think that the reporting obligations are not onerous because
25 in fact we assume good practice is such that you would keep

1 records of what customers are complaining about.

2 So we think twice a year is not a lot. But it
3 helps close a potential problem in the event that there is
4 somebody out there who has got some clever pattern of being
5 able to slam without being detected through the other
6 sources.

7 MS. NELSON: We also felt that the new reporting
8 mechanism will allow more consistent enforcement in the 50
9 states, and that is something we heard you were all
10 interested in, too, this consistency on the part of state
11 commissions.

12 MS. WALTERS: I wanted to also add that the new
13 biannual reporting requirement on carriers does have several
14 different levels, and one category is allegations that were
15 resolved directly with the subscriber by the carrier. If
16 carriers want to give additional information, that's okay
17 with us as long as they give us the information that we have
18 asked for. If they would like to break it down further and
19 show that certain numbers came from a certain type of event
20 that was a no-fault situation or whatever, that's fine with
21 us. And, of course, anything -- a slamming allegation if
22 resolved with the subscriber does not have to be forwarded
23 to the state commission for resolution because the carrier
24 has taken care of it.

25 MR. GILLIS: Yes. Introduce yourself, please.

1 MS. CRONIN: Yes. I'm Kate Cronin from AT&T. And
2 if I can speak to the PIC dispute issue for a moment. First
3 of all, at AT&T, we are in complete agreement with your
4 approach that it is our job to try and satisfy the customer
5 first. We have a slamming hot line. We hope the customer
6 calls us first. We want to analyze their problem and
7 hopefully give them a resolution, including adjustments if
8 appropriate, if there is any indication that there has been
9 a slam in that case.

10 However, the PIC dispute problem is something
11 separate from that. In trying our best to implement your
12 order, AT&T -- and hopefully as a member of the IXC industry
13 -- has real concern about how we should continue with PIC
14 disputes, what is known as PIC disputes under our PIC
15 switch-back tariffs. These are apart from LEC billing
16 arrangements. And part of how we as a business will have to
17 look at whether or not we should continue with them is
18 involved in your answers to questions two and three on the
19 PIC disputes, how should they be reported and should they
20 include additional credits.

21 Most PIC dispute tariffs now are essentially a no-
22 fault tariff, and they provide that if a customer calls a
23 LEC and says once we switch somewhere else that the IXC will
24 provide maybe a \$5, maybe a \$10 credit to the LEC for
25 switching the customer. Based on our informal information,

1 in many cases PIC disputes have absolutely nothing to do
2 with slamming. They are buyer's remorse, a customer who
3 wants to switch. They are customer confusion over billing
4 and a customer who then decides to switch. They are
5 confusion over casual calling. We believe at least
6 50 percent or more of PIC disputes have nothing to do with
7 slamming. And I have heard from elsewhere in the industry
8 that some of their informal information makes them believe
9 that more than 90 percent of PIC disputes have nothing to do
10 with slamming.

11 And I think this is a common issue that we share
12 is how we address because PIC disputes can average about
13 20,000 a month. If you require every PIC dispute to report
14 it as an alleged slam, we're not going to -- and issue
15 adjustment credit for those, like 30 days absolution or
16 150 percent liability, proxy liability, we won't have an
17 incentive to handle PIC disputes, what in some cases are
18 really just a freebie for the customer, so their switch is
19 facilitated. And you think for slamming -- and we won't be,
20 so we will force more volume through the state and FCC
21 complaint process so you will get the real numbers because
22 PIC disputes aren't the real numbers on slams.

23 So we are really looking for guidance and
24 cooperation as to how PIC disputes should be handled going
25 forward. We believe there is definitely room for the

1 continued existence of PIC dispute and PIC switchback
2 tariffs. However, I think that is based on them not being
3 treated as slamming allegations because to say that a PIC
4 dispute is a slamming allegation is to infer things that
5 simply don't exist there. I'm not saying that a certain
6 percentage of PIC disputes might not be slamming
7 allegations, and hopefully that -- if you -- that could be
8 addressed by the carriers properly providing the customers
9 with their rights. So if it really is a slamming
10 allegation, the customer knows to escalate it beyond a PIC
11 dispute situation.

12 But we hope you'll take that into consideration
13 because there are very real questions for AT&T in the
14 industry.

15 MS. ATTWOOD: Can I ask you to describe what you
16 would call a PIC dispute? Give an example.

17 MS. CRONIN: Let's see. In the western region --
18 and currently, or recently, AT&T had a PIC tariff for
19 intraLATA services. As one of the formerly local service
20 companies entered the intraLATA market, PIC disputes that we
21 had normally seen in other areas around the U.S., perhaps 1
22 percent of our net sales, rose in that -- when that
23 intraLATA entered the market -- rose to 15 percent of sales.
24 So that local service provider was then changing customers
25 and charging it against our PIC dispute tariff, you know,

1 absorbed inordinately more often than is normally done with
2 their entry into the market.

3 MS. ATTWOOD: Well, no. Let me just ask it a
4 different way. Can you tell me when the customer calls, how
5 do you know that this is what you are describing as a PIC
6 dispute versus a slam?

7 MS. CRONIN: To some extent I can't answer your
8 question because if the customer calls AT&T directly, it is
9 not treated as a PIC dispute. A PIC dispute is an
10 arrangement that we have with a LEC or an ILEC.

11 MS. ATTWOOD: Okay. What does the customer say to
12 AT&T when they come?

13 MS. CRONIN: The customer calls them. No. The
14 customer never calls AT&T. It's an arrangement only where
15 the customers calls the ILEC and the ILEC in its discretion
16 can say, customer, I'll switch you, and the customer never
17 even knows that the ILEC is then charging back to AT&T the
18 charge for switching back the customer. So we don't know
19 what the ILEC records. We don't know whether a customer
20 calls up and says I have been slammed. We don't know
21 whether a customer calls up saying I'd like to switch my
22 service, and the ILEC asks some vaguely worded question
23 about, well, was your original change authorized or not.
24 And someone says, well, I'm not sure who authorized it in my
25 family, if it was my husband. I don't think I did. And

1 then ILEC records it as a PIC dispute.

2 We don't know because we don't have that contact.

3 If PIC disputes are continued, perhaps one of the things
4 that will be considered is what the conversation should be
5 with an ILEC who has a conversation with a consumer so the
6 ILEC knows properly whether it is really a PIC dispute or
7 whether it is something where the ILEC has to make sure that
8 they fulfill their obligation to the consumer to advise the
9 consumer of their rights in a real slamming allegation.

10 MS. ATTWOOD: I guess the reason I was asking the
11 questions is I am having trouble understanding -- I will
12 tell you that from the perspective of the regulator, the
13 concern is that the customer who needs some service and has
14 been slammed is able to make one call and get relief. And
15 if you have a billing relationship with the LEC, that is the
16 contractual relationship you may have with the LEC. If you
17 elect a service off of a tariff, that's a business
18 relationship you may have with the LEC.

19 But the question of whether you can define whether
20 this customer has a slam or not a slam from the perspective
21 of the regulator, the concern we have is that the customer
22 in fact gets the service and the remedies it needs. And you
23 to some degree are describing what I would say is a
24 commercial or a billing dispute that we can be sensitive to
25 in terms of how we may want to look at whether these are

1 slams or not slams. But I think you need to be sensitive to
2 the concern of the regulator, which is that it is the -- it
3 is -- if you can't even identify when a slam has occurred or
4 when it hasn't occurred, we view that as that is a slam.

5 That customer is saying I have not -- the service
6 that I do not want. And from our perspective, the public
7 interest perspective, the regulators' perspective, we want
8 to see that the customer gets to the carrier that it wants
9 to and gets the money that it deserves.

10 MS. CRONIN: In the interests of the customer
11 making one phone call, one of the proposals made by the
12 competitive carriers in their list of issues was that there
13 be -- that each carrier's slamming hotline be publicized so
14 that the customer would appropriately call their allegedly
15 unauthorized carrier for that resolution and treatment.

16 MS. ATTWOOD: And we support that.

17 MS. CRONIN: We appreciate that because the reason
18 that the PIC dispute problem exists right now is because
19 many customers call their local service provider first.
20 They still view phone service sort of in a chain from the
21 local provider on up. Their contact is more often with the
22 local provider. And when they call the local provider about
23 a slamming allegation with respect to a intraLATA or long
24 distance service, our recommendation is that that local
25 provider not handle the customer's call because they don't

1 have all of the information. If it is local -- if it is
2 intraLATA or long distance, they don't have the record for
3 that. They can't analyze it. They would need to send the
4 customer our way.

5 MS. NELSON: I guess I would see as a state
6 commissioner that you make a choice, and you have entered
7 into billing agreements with local exchange carriers because
8 it was advantageous to do that. I guess that the local
9 customer wouldn't be so likely to call the local exchange
10 carrier if they were receiving their bill from their inter-
11 exchange carrier or their long distance provider, inter or
12 interstate. So it is a choice you make. And as a state
13 commissioner, I see it as a carrier to carrier problem.

14 I think slamming is clearly defined as the
15 unauthorized switching of a long distance provider without
16 that person's permission. And it all gets down to
17 verification. And at some point, you are going to have to
18 decide between yourselves whether or not that verification
19 existed or did not exist. And if it did, then it's not a
20 problem.

21 MS. CRONIN: A PIC dispute problem or question is
22 different than the LEC billing arrangement. The PIC dispute
23 tariffs do not exist because of the LEC billing arrangement.
24 But to answer some of your concerns, remember customer care
25 is one of our -- is our primary goal. And the legacy of LEC

1 billing is with AT&T because of where we have come from. We
2 have made efforts to take back billing. However, that is
3 disruptive to the customer, and we can't make a choice to do
4 that overnight here. That would be more disruptive to the
5 customer. Perhaps we'll move in that direction to further
6 answer questions in the future.

7 MS. ATTWOOD: And that's also why we have in the
8 truth in billing proceeding put the carrier number on there
9 so we can -- I mean, by that proceeding, we also encourage
10 customers to call the carrier that it has the dispute with.
11 And we encourage that. I think we have discussed earlier
12 that we would encourage efforts to publicize numbers to make
13 that one call. That's the goal, to make that one call.

14 MR. GILLIS: The state model, the truth in billing
15 rules, took the same position on that as well, the truth of
16 billing rules.

17 Just to move things along because we have a lot of
18 issues to cover, I would suggest that you do raise some
19 significant process issues, and that is the purpose of the
20 working group. We have a federal/state working group that
21 is meeting on a regular basis to address these specific kind
22 of process concerns. And there will be technical
23 discussions this afternoon, and I imagine that they are
24 ongoing. But what we look for this morning is to articulate
25 the principles. And the principle is most important here is

1 that the -- from the state's perspective is that the
2 industry continue to do everything possible to eliminate
3 slamming, including resolving PIC disputes in the way that
4 it always has. And this order shouldn't change that.

5 MS. CRONIN: Thank you. We look forward to
6 talking to you further this afternoon.

7 MR. GILLIS: Okay.

8 MALE SPEAKER: We have a person on the telephone.

9 MR. GILLIS: Okay. Would you -- on the phone
10 line, we have a question. Would you introduce who you are,
11 please? Hello?

12 MS. NELSON: State-of-the-art technology.

13 MR. GILLIS: Yeah.

14 MR. JACOBS: Hello?

15 OPERATOR: Mr. Jacobs, you're on, sir. Go ahead
16 with your question.

17 MR. JACOBS: It was more of a comment. I wanted
18 to congratulate --

19 MR. GILLIS: Leon, could you introduce who you
20 are, please?

21 MR. JACOBS: Oh, I'm sorry. This is Leon Jacobs.
22 I'm a Florida Public Service Commissioner. I'm very glad to
23 hear the comments from the FCC regarding their views on
24 implementing this rule. And I think it is really important
25 to understand that when you look at some of the consumers'

1 point of view, they need resolution as quickly as possible.
2 Even understanding the concerns raised about PIC disputes,
3 most consumers only know that they have a problem with who
4 they want to do service from. And our job is to resolve
5 that as quickly as possible.

6 The ancillary issues of whether or not it is
7 biased or remorse and those sorts of things should be able
8 to be resolved very quickly. In fact, I think the companies
9 can resolve those issues much more quickly than regulators
10 can. So that would in my mind argue for their early
11 involvement. And I know we can work through the issues of
12 how to make sure that we don't provide disincentives for
13 them to do that. But I think again the focus needs to be on
14 getting the consumers' issue resolved as quickly as
15 possible.

16 MR. GILLIS: Thank you. We have one comment over
17 here, and we do need to continue to move down our list.

18 MS. RONES: I'll be very fast. Julie Rones from
19 USTA. I want to commend the FCC and NARUC on this forum. I
20 also want to find out ways in which the association can
21 factor into that federal/state working group. Dorothy
22 Attwood had talked about the fact that states would be
23 working with the FCC intently, and you also mentioned the
24 working group. And we are very committed on behalf of our
25 membership to be a part of the dialogue. Thank you.

1 MR. GILLIS: Wonderful. That is exactly what we
2 want. Moving down the list, we spoke at least in principle
3 to issues one and two under A. Issues three and four, maybe
4 a couple of introductory comments from the table on those
5 topics? Bev, would you make a quick comment on those,
6 please, the nature of the issue?

7 MS. DeMELLO: I think on the no-fault resolution,
8 it is a question of the credits, and that was an issue that
9 the -- both -- I think it was addressed in the industry by
10 the industry, both groups. So I think we were wanting to
11 hear some comments from the industry on this.

12 MR. GILLIS: Okay. And four is an issue that
13 generally, as we discussed, we viewed as a pretty narrow
14 issue. Maybe it falls in the category that Dorothy
15 introduced earlier as one that may be just a minor point.
16 And so if there are comments from the audience of why it is
17 more significant than we realize, that would be interesting,
18 too. So are there any other comments from the table, or do
19 we just want to hear from folks here on that one? It sounds
20 like that if there are any members of the industry or the
21 audience that would like to comment on those, we would be
22 interested because we did take them off the industry issue
23 list that you had reported.

24 FEMALE SPEAKER: And maybe you can help us
25 understand that.